## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CINDY BARBERA, CARLENE BECHEN, ELVIRA BUMPUS, RONALD BIENDSEI, LESLIE W. DAVIS, III, BRETT ECKSTEIN, GEORGIA ROGERS, RICHARD KRESBACH, ROCHELLE MOORE, AMY RISSEEUW, JUDY ROBSON, JEANNE SANCHEZBELL, CECELIA SCHLIEPP, and TRAVIS THYSSEN,

Plaintiffs,

v.

Case No. 11-C-00562

Members of the Wisconsin Government Accountability Board, each only in his official capacity: MICHAEL BRENNAN, DAVID DEININGER, GERALD NICHOL, THOMAS CANE, THOMAS BARLAND, and GORDON MYSE, and KEVIN KENNEDY, Director and General Counsel for the Wisconsin Government Accountability Board,

Defendants.

## DEFENDANTS' MOTION TO DISMISS

The defendants, the Members of the Wisconsin Government Accountability Board ("GAB"), Michael Brennan, David Deinninger, Gerald Nichol, Thomas Cane, Thomas Barland, and Timothy Vocke, each in his official capacity only, and Kevin Kennedy, in his official capacity as Director and General Counsel for the GAB only,

by their attorneys, J.B. Van Hollen, Attorney General, and Maria S. Lazar, Assistant Attorney General, hereby move this Court for a dismissal of this action pursuant to Fed. R. Civ. P. 12(b)(1) (lack of subject matter jurisdiction) and Fed. R. Civ. P. 12(b)(6) (failure to state a claim upon which relief can be granted). In the alternative, movants request that this Court defer to the State Legislature and then the State judiciary or that the Court abstain from taking this matter.

For the reasons more fully set forth in the accompanying Brief in Support of Motion to Dismiss, the movants request that the Court grant their Motion to Dismiss this action in its entirety.

Dated this 30th day of June, 2011.

J.B. VAN HOLLEN Attorney General

<u>s/Maria S. Lazar</u> MARIA S. LAZAR Assistant Attorney General State Bar #1017150

Attorneys for Defendants

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